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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

**BLUE MOUNTAINS BIODIVERSITY
PROJECT,**
an Oregon nonprofit corporation,

Plaintiff,

v.

HOMER WILKES, Under Secretary for
Natural Resources and Environment, United
States Department of Agriculture, in his
official capacity, et al.,

Defendants.

Case No. 1:22-cv-01500-CL

**SECOND UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND
TO DEFENDANT'S MOTION TO
DISMISS**

Expedited Consideration Requested

I. MOTION

In accordance with Local Rule 16-3, Plaintiff respectfully requests an 8-day extension of time to file its Response to Defendants’ Motion to Dismiss. ECF No.24. Plaintiff’s Response is currently due on February 7, 2023. See ECF No.26. With an 8-day extension of time, Plaintiff’s Response deadline would be extended to February 15, 2023. Plaintiff hereby certifies that counsel for all parties have conferred pursuant to LR 7-1, and Defendants indicated they do not oppose Plaintiff’s request for an 8-day extension of time.

Memorandum in Support of Motion

Plaintiff requests an extension for its Response to Defendants’ Motion to Dismiss given that Austin Starnes, staff attorney for Plaintiff, tested positive for and presented symptoms of COVID-19 in January. Plaintiff previously sought and was granted a one week extension for its response. See ECF Nos. 25 and 26. However, Mr. Starnes is still experiencing the effects of “long COVID”, including fatigue and persistent shortness of breath, hampering his ability to work on this response. Co-counsel for Plaintiff Tom Buchele is recovered from his earlier COVID symptoms, but has an immovable deadline for a reply brief in an expedited Ninth Circuit appeal, *BMBP v. Jeffries*, No. 22-35857, due on Friday, February 10, 2023. Mr. Buchele also has another filing due in a separate appeal, *Earth Island Institute v. Muldoon*, No. 22-16484, on Monday, February 13, 2023. Because of these existing commitments, Plaintiff’s counsel had hoped that Mr. Starnes would be able to take the lead on the response brief due in this case tomorrow, but Mr. Starnes has not been able to do as much work as Plaintiff’s counsel had hoped because of his continuing illness.

Plaintiff apologizes for the “last-minute” nature of this request. But Plaintiff’s counsel have been working diligently on their response and until late yesterday believed they would be able to file it pursuant to the existing deadline. Plaintiff’s counsel then attempted to contact Defendants’ counsel yesterday, February 6th, but was unable to actually confer with them until the morning of February 7th.

Therefore, Plaintiff seeks an 8-day extension to file its Response to Defendant's Motion to Dismiss on February 15, 2023. This extension will impact the timeline for Defendants' Reply to Plaintiff's Response, which would now be due 14 days after Plaintiff's Response is filed, on March 1, 2023.

For good cause, Plaintiff requests that the Court grant its motion and order that Plaintiff has until February 15, 2023 to respond to Defendants' Motion to Dismiss, ECF No. 24.

Dated: February 7, 2023

s/ Thomas Buchele

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